

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

February 12, 2014 at 9:30 A.M.

-
- | | | |
|----|--|--|
| 1. | <u>13-26304</u> -B-7 JOHN MUSHOLT
<u>13-2246</u>
KANAWYER V. MUSHOLT | CONTINUED STATUS CONFERENCE RE:
COMPLAINT
7-29-13 [<u>1</u>] |
|----|--|--|

Tentative Ruling: None.

- | | | |
|----|---|--|
| 2. | <u>12-28614</u> -B-7 PETER/VALENTINA PETRENKO
<u>13-2380</u>
PETRENKO V. SALLIE MAE ET AL | STATUS CONFERENCE RE: COMPLAINT
12-10-13 [<u>1</u>] |
|----|---|--|

Tentative Ruling: The status conference is continued to March 26, 2014, at 9:30 a.m. If the adversary proceeding is not resolved by February 25, 2014, the parties shall also comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if the date of the continued status conference was the status conference date set in the original summons (Dkt. 3), including, inter alia, development of a joint proposed discovery plan. Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply or the striking of defendant's answering and the entry of defendant's default for defendant's failure to comply.

The status conference is continued because there is no evidence of compliance with the OTC in the court's record.

The court will issue a minute order.

- | | | |
|----|--|---|
| 3. | <u>13-31022</u> -B-7 KATHLEEN DEEGAN
<u>13-2337</u>
BANK OF AMERICA, N.A. V.
NOBACH | CONTINUED STATUS CONFERENCE RE:
COMPLAINT
10-30-13 [<u>1</u>] |
|----|--|---|

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The status conference is conclude. The court will issue a scheduling

order based on the schedule set forth in the joint discovery plan filed January 29, 2014 (Dkt. 29).

4. [13-31022](#)-B-7 KATHLEEN DEEGAN CONTINUED STATUS CONFERENCE RE:
[13-2363](#) COMPLAINT
NOBACH V. DEEGAN 11-15-13 [[1](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The status conference is concluded. The court will issue a scheduling order based on the joint discovery plan filed by the parties on February 5, 2014 (Dkt. 17).

5. [13-20126](#)-B-7 EDELGARD WOOD CONTINUED STATUS CONFERENCE RE:
[13-2123](#) COMPLAINT
BRITTON ET AL V. WOOD 4-10-13 [[1](#)]

Tentative Ruling: The adversary proceeding is dismissed pursuant to Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f).

The adversary proceeding is dismissed due to the parties' failure to comply with the court's order entered December 20, 2013 (Dkt. 27) (the "Order"), which Order continuing the status conference to allow the plaintiff time to file a request for dismissal of the adversary proceeding pursuant to a settlement agreement. The Order further ordered the parties to comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (the "OTC") (Dkt. 5) if the adversary proceeding were not resolved by January 14, 2014. Nothing having been filed in the adversary proceeding by either party since entry of the Order, the court dismisses the adversary proceeding. Fed. R. Civ. P. 16(f) (1) (C).

The court will issue a minute order.

6. [13-30690](#)-B-11 WILLIAM PRIOR CONTINUED STATUS CONFERENCE RE:
[13-2288](#) NOTICE OF REMOVAL
PRIOR V. TRI COUNTIES BANK ET 8-27-13 [[1](#)]
AL

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The status conference is continued to April 9, 2014, at 9:32 a.m.

7. [13-31893](#)-B-7 ERIC/NANCI STEGER
[13-2388](#)
EDWARDS V. STEGER ET AL

STATUS CONFERENCE RE: COMPLAINT
12-16-13 [[1](#)]

Tentative Ruling: The status conference is continued to April 9, 2014, at 9:30 a.m. If the adversary proceeding is not resolved by March 11, 2014, the parties shall also comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if the date of the continued status conference was the status conference date set in the original summons (Dkt. 3), including, inter alia, development of a proposed discovery plan. Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply or the striking of defendant's answering and the entry of defendant's default for defendant's failure to comply.

Because the plaintiff objects to the debtors' discharge under 11 U.S.C. § 727, the parties are required to comply with the instructions set forth in the OTC. The OTC is designed to have the parties meet and confer prior to the status conference for the purposes of discussing the possibility of settlement, the timing of initial disclosures required by Federal Rule of Civil Procedure 26(a) and to develop a discovery plan which includes a schedule setting forth deadlines by which the parties expect to conclude discovery related to the claims alleged in the adversary complaint. The foregoing help the adversary proceeding move toward an orderly conclusion and to give all parties an opportunity to collect the information necessary to support their respective positions. Specifically, the development and filing of a discovery plan with the court assists the court in issuing a scheduling order which sets forth instructions and procedures for moving the adversary proceeding toward trial. As of February 11, 2014, there is no evidence on the court's docket that the parties have complied with the OTC. Therefore, the status conference is continued to allow them to do so. Failure to comply with this order continuing the status conference or with the OTC may result in the imposition of sanctions as set forth above.

The court will issue a minute order

8. [12-38199](#)-B-7 STEVE GREGORY
[13-2022](#)
GREGORY V. GREGORY

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-22-13 [[1](#)]

Tentative Ruling: The status conference is continued to April 9, 2014, at 9:30 a.m., to allow the plaintiff to seek entry of default judgment in a manner consistent with the court's ruling issued on January 28, 2014 (Dkt. 62). If the adversary proceeding is not resolved by March 11,

2014, the parties shall also comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if the date of the continued status conference was the status conference date set in the original summons (Dkt. 3). Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply.

The court will issue a minute order.

9. [13-30038](#)-B-7 JAMES/WENDY ELMORE STATUS CONFERENCE RE: COMPLAINT
[13-2383](#) 12-11-13 [[1](#)]
ROBERTS V. AMERIFIRST HOME
IMPROVEMENT FINANCE CO.

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The status conference is continued to April 23, 2014, at 9:30 a.m. to allow plaintiff John Roberts (the "Plaintiff") time to file and set for hearing a motion for entry of default judgment. If the adversary proceeding is not resolved by March 25, 2014, all parties appearing in the adversary proceeding shall comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if the date of the continued status conference was the status conference date set in the original summons (Dkt. 3). Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply.

The court will issue a minute order.

10. [13-31642](#)-B-7 SAM RANDO STATUS CONFERENCE RE: COMPLAINT
[13-2381](#) 12-11-13 [[1](#)]
FIRST NATIONAL BANK OF OMAHA
V. RANDO

Tentative Ruling: The status conference is concluded. The adversary proceeding is set for a trial on May 7, 2014, at 10:00 a.m. before the Honorable David E. Russell in courtroom 32.

On or before April 30, 2014, each party shall lodge (not file) with the Courtroom Deputy, Ms. Sheryl Arnold, two identical, tabbed binders (or set of binders), each containing (i) a witness list (which includes a general summary of the testimony of each designated witness), (ii) one set of the party's exhibits, separated by numbered or lettered tabs and (iii) a separate index showing the number or letter assigned to each exhibit and a brief description of the corresponding document. The plaintiff's binder tabs shall be consecutively numbered, commencing at

number 1. The defendant's binder tabs shall be consecutively lettered, commencing at letter A. On or before April 30, 2014, each party shall serve on the other party an identical copy of the party's lodged binder (or set of binders) by overnight delivery. The parties shall lodge and serve these binder(s) regardless of whether some or all of the contents have been filed in the past with this court. The lodged binder(s) shall be designated as Exhibits for Trial in First National Bank of Omaha v. Rando, no. 13-2381-B. In addition to the tabs, the trial exhibits in the lodged binder(s) shall be pre-marked on each document. Stickers for pre-marking may be obtained from Tabbies, [www.tabbies.com) - plaintiff's stock number 58093 and defendant's stock number 58094. All lodged binder(s) shall be accompanied by a cover letter addressed to the Courtroom Deputy stating that the binder(s) are lodged for chambers pursuant to Judge Holman's order. Each party shall bring to the trial one additional and identical copy of the party's lodged binder(s) for use by the court - to remain at the witness stand during the receipt of testimony. Trial briefs are not required. Any trial brief that a party chooses to submit must be filed and served on or before April 30, 2014.

The court will issue a minute order.